

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Vera Shepard Charlot,)	C/A No.: 3:11-579-MBS-SVH
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Honorable Michael B. Donley, Secretary)	
of the Air Force; Terry St. Peter; Dawn)	
M. Moore; and Clayton D. Leishman,)	
)	
Defendants.)	

This matter comes before the court on the motion to dismiss Plaintiff Vera Shepard Charlot's complaint pursuant to Fed. R. Civ. P. 12(b)(1) filed by U.S. Air Force employees Terry St. Peter, Clayton D. Leishman, and Dawn M. Moore ("Individual Defendants") on October 11, 2011. [Entry #42]. All pretrial proceedings in this case were referred to the undersigned on January 1, 2012 pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(g) (D.S.C.).

Plaintiff's First through Third Causes of Action allege discrimination, retaliation, and a hostile work environment in violation of Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. §§ 2000(e) *et seq.* The Fourth Cause of Action alleges defamation by the Individual Defendants, statements as Plaintiff's supervisors, made primarily in the course of the Investigations and Resolutions Division investigation of her complaints. In their motion to dismiss for lack of subject matter jurisdiction, Individual Defendants assert that Title VII is the exclusive remedy for Plaintiff's discrimination claims and that

the proper defendant in such cases is the head of the department or agency. It appears that the Individual Defendants also seek dismissal of Plaintiff's defamation claim. In light of the court's independent obligation to ensure that subject matter jurisdiction exists, Individual Defendants are directed to file a memorandum no later than March 9, 2012, addressing whether: 1) Plaintiff's claim for defamation against Individual Defendants is preempted by Title VII; and/or (2) whether Individual Defendants were acting within the scope of their employment with regard to the defamation allegations, and if so, whether the U.S. Attorney plans to file a certification as to the same.

IT IS SO ORDERED.

A handwritten signature in cursive script, reading "Shiva V. Hodges".

February 24, 2012
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge